

The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

January 24, 2005

Bob Sidiropoulos
1180 Main Street
Tewksbury, MA 01876

**NOTICE OF NON-COMPLIANCE and
PERMIT REVOCATION – NCPR # 05-008**

RE: ROCHESTER, BOB SIDIROPOULOS, EXISTING UNDERGROUND STORAGE TANK
FACILITY (UST #A-0111127) (DES #199302016)

Dear Mr. Sidiropoulos:

The New Hampshire Department of Environmental Services ("DES") is hereby notifying you that the above-referenced facility, located at 287 North Main Street, Rochester, NH is not in compliance with New Hampshire Code of Administrative Rules Env-Wm 1401, regulating Underground Storage Facilities. On April 13, 2004 a DES inspector conducted a compliance audit at the facility. A written document describing the deficiencies was provided to the facility representative. This document required the facility be returned to compliance within 45 days, and DES be notified of the corrective measures taken. Compliance has not been achieved. **Failure to achieve compliance with the following deficiencies within 90 days from the date of this Notice of Non-Compliance and Permit Revocation ("Notice") will result in revocation of your Permit-to-Operate on April 24, 2005. This letter contains important compliance and procedural information. Please read it carefully. Also, note that due to the non-compliance status of your facility a Proposed Administrative Fine will be issued under separate cover.**

1. Env-Wm 1401.25 Spill Containment and Overfill Protection

Env-Wm 1401.25 requires all spill containment equipment to have a minimum liquid capacity of 5 gallons and to be maintained in good working order to perform its original design function. DES has determined that the spill containment device for the 10,000-gallon gasoline UST (Tank 5) is filled with liquid and the drain valve is inoperable. Verification in writing that spill containment device has been emptied and the drain valve repaired shall be submitted to DES.

Env-Wm 1401.25 also requires overfill protection equipment to be installed at the 90% alert level or 95% shut off level. DES could not determine whether the overfill protection device for the 8,000-gallon gasoline UST (Tank 6) was installed at the required 90% alert or 95% shut off level. Verification in writing that the overfill protection device for Tank 6 is installed at the 90% alert or 95% shut off level shall be submitted to DES.

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2. Env-Wm 1401.27 Leak Monitoring for New Underground Piping Systems

Env-Wm 1401.27(d) requires the interstitial space of double wall piping to be continuously monitored. DES has determined that the interstitial spaces of the double wall piping for Tanks 5 and 6 were not being continuously monitored. The plugs inside the STP sumps of Tanks 5 and 6 must be removed and notification that the double wall piping of Tanks 5 and 6 are being continuously monitored must be submitted to DES.

3. Env-Wm 1401.30 Release Detection for Piping

Env-1401.30(b) requires records be maintained for line leak detector tests. DES has determined that the passing annual line leak detector tests for Tanks 5 and 6 had not been performed. A passing annual line leak detector test for Tanks 5 and 6 shall be provided to DES.

4. Env-Wm 1401.31 Operation of Leak Monitoring Equipment

Env-Wm 1401.31 require that a leak monitor for double-wall tank systems continuously operate. The leak monitoring equipment and devices shall be tested annually for proper operation in accordance with manufacturer's requirements. DES has determined that the leak monitor was in alarm condition due to 13.5 inches of liquid in the interstitial space of Tank 5 and 3.5 inches of liquid in the interstitial space of Tank 6 and the tank systems were not temporarily closed. DES has also determined that the leak monitor's annual test had not been performed. Liquid must be removed from the interstitial spaces of both UST and verification that the interstitial sensors are located at the bottom center of both USTs shall be provided to DES. Also, an annual leak monitor test shall be conducted and the results submitted to DES.

5. Env-Wm 1401.07 Permit-to-Operate

Env-Wm 1401.07 requires that the permit-to-operate be permanently affixed on the facility premises and visible to a division inspector. The field inspection revealed that the permit was not posted. The permit-to-operate shall be posted on the facility premises and verification in writing that the permit has been posted shall be provided to DES.

6. Env-Wm 1401.21 Tank Standards for New Underground Storage Systems

Env-Wm 1401.21 requires a UST system completed certificate be permanently affixed and visible to the division inspector at the facility premises for all new UST systems. The field inspection revealed that the completed certificates for Tanks 5 and 6 were not posted. Certificates for Tanks 5 and 6 shall be posted at the facility and verification in writing that the certificates have been posted shall be provided to DES.

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In addition, Env-Wm 1401.10(a) requires owners of underground storage facilities for oil to maintain financial responsibility for costs associated with cleanup of releases from systems, the implementation of corrective measures, and compensation for third party damages in the amount equal to or greater than \$1,000,000 per occurrence. Env-Wm 1401.10(c) provides that the financial responsibility requirement may be satisfied if the owner is eligible for reimbursement of costs associated with cleanup of releases from the Oil Discharge and Disposal Cleanup Fund ("the Fund"). Eligibility for the Fund is contingent upon achieving and maintaining compliance with statutory (RSA 146-C) and regulatory (Env-Wm 1401) requirement. This facility has not achieved compliance, consequently, the Fund is not available to you as a financial responsibility mechanism.

In accordance with RSA 146-C:4 and Env-Wm 1401.07(a), no person shall own or operate an underground storage facility without a permit issued by DES. Within 30 days from the date of the permit revocation the facility shall be closed in accordance with Env-Wm 1401.18 for permanent closure.

Based on the compliance deficiencies described above, DES believes this facility poses a potential substantial threat to the surface and groundwater of the state. Therefore, in accordance with RSA 146-C:4 and Env-Wm 1401.09, if compliance as requested above is not achieved within ninety (90) days of the date of this Notice your Permit-to-Operate (UST Permit #0111127) shall be revoked effective **April 24, 2005**. Within thirty (30) days of the date of permit revocation all regulated substances must be removed from the UST systems at this facility. If the facility achieves compliance during the ninety (90) day period, it is necessary that documentation be submitted to DES verifying that compliance has been attained.

You have the right to a hearing to contest these allegations before the proposed license action is taken. The hearing would be a formal adjudicative proceeding pursuant to RSA 541-A:31, at which you and any witnesses you may call would have the opportunity to present testimony and evidence as to why the proposed action should not be taken. All testimony at the hearing would be under oath and would be subject to cross-examination. If you wish to have a hearing, one will be scheduled promptly.

RSA 541-A:31 III(e) provides that you have the right to have an attorney present to represent yourself at your own expense. If the Permit is an occupational license, under RSA 541-A:31, III(f) you have the right to request DES to provide a certified shorthand court reporter at your own expense. **Such request must be submitted in writing at least 10 days prior to the proceeding.**

You may waive your right to a hearing. If you waive the hearing, DES is prepared to proceed with the actions as stated above. You should notify DES of your decision by filling out and returning the enclosed form.

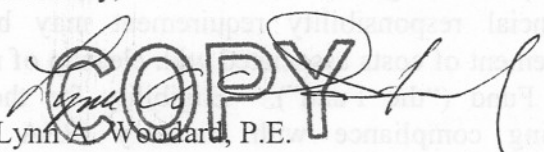
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If there are any questions concerning the above, I may be contacted at the Waste Management Division at (603) 271-1165.

Sincerely,


Lynn A. Woodard, P.E.

Supervisor

Oil Compliance and Initial Response Section

CERTIFIED MAIL # 7000 1670 0000 0586 8420

cc: Michael P. Nolin, Commissioner

Gretchen R. Hamel, DES Legal Unit ✓

Fred McGarry, P.E., Chief Engineer, WMD

George Lombardo, P.E., WMD

Tom Beaulieu, WMD

Mark Antonia, WMD

Health Officer, City of Rochester

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APPEARANCE

____ I desire a hearing in accordance with Env-Wm 1401 regarding the Permit.

Name: _____
(Please type or print legibly)

Title: _____
(Please type or print legibly)

Signature

Date: _____

WAIVER OF HEARING

____ I certify that I understand my right to a hearing regarding the revocation of the Permit and that I hereby waive those rights.

Name: _____
(Please type or print legibly)

Title: _____
(Please type or print legibly)

Signature

Date: _____

Please return to:

Department of Environmental Services Legal Unit
Attn: Michael Sclafani, Legal Assistant
PO Box 95
Concord, NH 03302-0095